United States Department of the Interior



Bureau of Land Management Redding Field Office

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April 25, 2007

State Water Resources Control Board 1001 I Street, 22nd Floor Sacramento CA 95814 (916) 341-5161

Subject: Petition for Review of Cleanup and Abatement Order No. R5-2007-0708, Discharge of Sediment from Doe Mill Road to Butte Creek, Butte County

On March 30, 2007, the BLM received a letter from the Assistant Executive Officer of the Central Valley Region of the California Regional Water Quality Control Board on the above subject. This letter attached a Cleanup and Abatement Order (*Attachment 1*). That order requires a cleanup and restoration plan prepared by a professional and approved by the Regional Water Board Assistant Executive Officer by April 30, 2007. In addition, it requires the BLM take certain identified corrective action no later than November 15, 2007. The BLM asks that the State Board review the order based on the following information.

Introduction

The Redding Field Office is asking the Board to intercede and work toward the goals expressed in the memorandum of understanding between the BLM and the CSWRCB for Planning and Coordination of Nonpoint Water Quality Policies and Activities signed in 1993 to work cooperatively. Not withstanding because an order was issued we are providing the following information to preserve our right to petition the Board and ask for a review of order R5-2007-0708.

Background

Ponderosa Way, a portion of which is also currently known as Doe Mill Road, was built in the 1930s by the Civilian Conservation Corps. The road was built as a fire defense road as explained in *Attachment 2*, a California Department of Forestry and Fire Protection (CDF) history of the road. In 1949, the United States Forest Service (USFS) issued a permit (*Attachment 3*) for the "...actual road or highway, bridges, culverts, supports and all appurtenances to the said road." Ponderosa Way is identified in the permit. The permit was issued to CDF, who was charged with the administration of the road and all appurtenances, including bridges, as part of its official road system for use by the general public. For 50 years, the State of California was charged with and accepted administration of the road and appurtenances that are now the subject of this clean up and abatement order from the Regional Board.

In a January 6, 1999 CDF memo concerning Ponderosa Way and bridges, a Caltrans inspection

of the Butte Creek bridge is referenced to show that the bridge is in need of work. This CDF memo also contains a statement that a conservative estimate to replace the bridge is 1.5 million dollars. See *Attachment 4*.

The USFS permit was apparently terminated as a result of CDF's May 30, 2000 letter (Attachment 5) requesting termination (see Forest Service's May 16, 2001, letter to CDF (Attachment 6) which confirms that the permit was closed).

The above information indicates historical involvement by at least two other entities — the United States Forest Service and the California State Department of Forestry. Although public land records indicate some of the lands in question are now under public land administration, the agreement to construct, maintain, and administer the road and its appurtenances was not approved by the BLM. BLM simply was not a party to the agreement and further, was not consulted by the California Department of Forestry when it terminated the permit thereby purportedly relieving it of any responsibility for maintenance and repair. Since the road and the bridge are partly located on public land for which no authorization exists, the road is theoretically in trespass. Since the historical record as it is currently understood indicates administration of the road and appurtenances by the State, pursuant to a permit between it and the USFS, both of these entities are appropriate potentially responsible parties to the Regional Board's order.

On April 10, 2007, Steven Anderson, Redding Field Office Manager, and Howard Matzat, Redding Realty Specialist, attended the Butte County Supervisors Meeting where Ponderosa Way was a topic on the agenda. After listening to public comments, including those made by BLM representatives, the Board made the recommendation that Mike Crump, Director of the Butte County Department of Public Works, further research Ponderosa Way. One individual commented that Butte County had sent out letters in the early sixties requesting that private parties keep their private earth moving equipment off of the County's road – Ponderosa Way.

Recent communications with the County indicate a preference that the road and bridge be maintained for public use. As such, Butte County should be considered an interested party in these proceedings inasmuch as it may have legal ownership obligations that attach to the road by approving development that uses the road as a primary access route. The order issued by the Regional Board neglects to mention or discuss these potentially responsible parties.

Remedial Action Taken

The rainfall that occurred during several days from Christmas 2005 to New Year's Day 2006 was especially severe. This rainfall combined with the then condition of Doe Mill Road resulted in roadway runoff carrying sediment to Butte Creek and damaging Doe Mill Road.

BLM had been contacted by phone by the Regional Water Quality Control Board and had been taking inventory around the resource area of storm damage. In June 2006 the Redding Field Office's Civil Engineer, Eric Antrim, requested and received \$29,400 for the emergency repair of Doe Mill Road. The BLM used this funding to reconstruct washouts on approximately one mile of road, install 6 new culverts and clean the inlets of many culverts including one that required major excavation. As the public land manager, BLM took it upon itself as a good neighbor and to accommodate the request of the Board to limit the potential for sediment discharge to waters of the State even though it does not and did not own the road.

The BLM completed additional work directed by the Regional Board's Environmental Scientist, Drew Coe. BLM reshaped a water bar, remove fill dirt, installed erosion control riprap and installed one new culvert.

Remedial Action Planned

On March 12, 2007, the Redding Field Office asked to be listed as a partner agency of the Butte County Resource Conservation District's application package for the CALFED Watershed Program 2007 Solicitation. The Redding Field Office committed to the needed match through in-kind contributions of equipment and personnel at a value of approximately \$50,000. This letter of intent is included as *Attachment 7*. The BLM consistently works with RCD's and the proposed project should be beneficial to the Butte Creek Watershed and salmonid habitat in Butte Creek.

BLM Management. The Regional Board takes issue with BLM's management of this isolated parcel of public land. The road and the bridge fall physically within the Redding Resource Management Plan. While land use plans are to "provide for compliance with applicable pollution control laws", that compliance is measured against specific pollution control standards. See 43 U.S.C. 1712(c)(8). The Regional Board has failed to identify what specific pollution control standard the BLM has failed to meet, and has further failed to justify the identified specific management actions to the exclusion of others. As a federal agency, the BLM manages public lands pursuant to land use planning principles. It cannot accede to management prescriptions that do not meet legal applicability standards, such as suggested here by the Regional Board. The bridge and the road that are complained of by the Regional Board traverse public land and serves as a link to and from privately owned property, an interest that is of more relevance to the California Department of Forestry and Fire Protection, and Butte County, than to BLM as a federal public land management agency. What the Regional Board seeks is to change BLM's management of this small public land holding to meet it's undefined and unstructured requirements, based upon standards that are likewise not identified in its clean up and abatement order. Such activity is not in compliance with the BLM's mandate under the Federal Land Management and Policy Act, nor does it comport with the State Board/BLM MOU found as Appendix 24 to the Basin Plan (and as discussed more fully below).

Failure to Specifically Identify Alleged Violations. The Regional Board, in its clean up and abatement order, has failed to specify the particular violation with which it takes issue. In response to each finding, the BLM states:

1. The Regional Board states that the BLM "owns Doe Mill Road." This is simply false. The BLM manages the public land over which the road traverses. The Regional Board summarily determined that the BLM was the only appropriate entity to which to address its order. The Regional Board indicates without specificity that runoff is from the road and the bridge into Butte Creek. Because the road and the bridge cross public land, the BLM is identified as the discharger for purposes of this order. As noted above, other responsible parties have been identified.

Another implication in the order is that the un-quantified runoff from the road and the bridge impacts the Spring Run Chinook. The order, however, lacks supporting

documentation as to the particulars of runoff and the specific impact, if any, to the Chinook.

- 2. The inspection referred to in this finding was conducted after the severe rainfall of 2006 and prior to the BLM's emergency repairs of that same year. These conditions are not indicative of those at present. The BLM's emergency repairs were funded and implemented under the guidance of a civil engineer with the intent of eliminating any imminent danger to Butte Creek or Doe Mill Road.
- 3. The BLM disputes the characterization of "discharger." The road and bridge are not owned by the BLM. The BLM's emergency repairs have vastly decreased any threat of sediment discharge to Butte Creek and its tributaries.
- 4. The BLM again disputes the characterization of "discharger." The BLM assumes that the "plugged CMP" referenced here is the 36 inch diameter culvert immediately west of the bridge and disputes the claim that it was "plugged." We believe the culvert had the hydraulic capacity to accommodate the rainy winter of 2006 despite being covered in stone. This culvert and many others were cleaned by BLM workers in June of 2006 with the storm damage funding already discussed.
- 5. The BLM disputes the characterization of "discharger." There is no evidence that the drainage crossing has ever failed to provide the needed hydraulic capacity, even in 2006. Replacing this pipe with a larger diameter pipe at a steeper slope would be an exceedingly expensive undertaking and produce very little, if any, benefit. The "necessary remedial action" required by the Regional Board is not reasonable nor appropriately addressed to the BLM.

The order issued by the Regional Board fails to comply with the State Water Resources Control Board Resolution No. 92-49 (Appendix 9 to the Basin Plan). The Regional Board is prohibited from specifying, as opposed to suggesting, methods to achieve compliance with requirements or orders. See No. 18; and Water Code section 13360. In addition, according to the resolution, the Regional Water Boards are to

"D. Notify appropriate federal, state, and local agencies regarding discharges subject to [Water Code] Section 13304 and coordinate with these agencies on investigation, and cleanup and abatement activities." Appendix 9, p.3, I.D.

Without coordination with the BLM, the Regional Board issued its order dictating cleanup. The terms of that cleanup and abatement order dictate the methods to achieve compliance with its order. Neither the order nor the mandated methods comply with the direction of the State Board as expressed in Resolution 92-49.

- 6. The 36 inch diameter culvert is not an imminent threat to water quality. The BLM disputes that this culvert was "plugged" and that the material at the culvert's inlet can be adequately characterized as "sediment
- 7. The order states that California Water Code section 13050 defines "waste" as the discharge of earthen material, soil and sediment into waters of the state. Effective

January 1, 2006, section 13050 defines "waste" to include

"sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal."

The definition of waste does not appear to address the issue complained of in the order. In addition, the order states that the discharger, "through this activity", has created a condition where "waste" threatens water quality, and probably will be discharged directly into surface waters, waters of the State and of the United States. The particular finding concludes that the discharge of this "waste", if it occurs, will cause a condition of pollution or nuisance by "increasing levels of sediment, settleable and suspended material, and turbidity."

None of these increasing levels are defined. To the contrary, the order proclaims a "potential threat of probable discharge" that "will [definitely] cause" pollution (defined as an alteration of water quality), or a nuisance (defined as an objectionable interference or effect). No support is given for these statements in this order. No sediment level, settleable or suspended material level, or turbidity limit is identified that will be altered or impacted by the continued existence of Doe Mill Road. Rather, the order summarily concludes that discharge of this "waste" will cause a condition of pollution or nuisance prohibited by the Basin Plan (see Finding No.8). However, alterations, depositions, or concentrations of material do not always equate to nuisance or an adverse affect to beneficial uses. Indeed, the Basin Plan refers to the Porter-Cologne Water Quality Control Act as its source for the following statements:

"[The Act] also requires the Regional Water Board to establish water quality objectives, while acknowledging that it is possible for water quality to be changed to some degree without unreasonably affecting beneficial uses." See Basin Plan, III-1.00.

The order fails to identify which beneficial use is impacted and what level of impact rises to nuisance or an adverse affect to a particular beneficial use.

The activities of the BLM have dramatically decreased "the discharge of earthen material, soil and sediment into waters of the state." The activities that increased the discharge of earthen material, etc., were the initial construction and subsequent neglect of Doe Mill Road (aka Ponderosa Way). The BLM should be commended for helping to reverse years of neglect and prevent future discharges to the waters of the state.

8. The beneficial uses of Butte Creek listed in this finding do not match the beneficial uses listed in Table II-1 of the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition (Basin Plan). For instance, municipal and domestic supply is applicable pursuant to the Basin Plan for those Butte Creek "sources to Chico"; assuming that is the appropriate source limitation, then contrary to this finding the Table does not support the Regional Board's reference to "other non-contact recreation", "migration of warm water organisms", "reproduction and early development of fish", or "preservation of rare and endangered species". While the Bureau does not contest that Table II-1 lists certain beneficial uses attributed to Butte Creek, they are not as expansive

as claimed by the Regional Board as shown by the Basin Plan, fourth edition. Finally, without reference, the Regional Board claims Butte Creek supports populations of federally listed Spring Run Chinook and Steelhead Trout. It is unclear from the order how or even if the "potential threat of probable discharge" to Butte Creek from these public lands will interfere with the listed beneficial uses, all of which are not likely to occur within that portion of Butte Creek over which the bridge spans and near to which the road traverses. The Regional Board has simply not identified with specificity the alleged impact to any particular beneficial use complained of in its order.

9. The findings presented in this paragraph are not supported. The order summarily determines that the "discharger" failed to maintain the road, and the "poor initial design of the road" has resulted in disturbance of sedimentation and soil, threatening to discharge into surface waters during rain events. These acts are attributed to the BLM as the current landowner. However, the documentation attached to this petition for review shows that the California Department of Forestry and Fire Protection was responsible to maintain the road pursuant to the permit issued by the Forest Service. The road was not designed nor constructed by the BLM. The conclusion that the threat of discharge to surface waters will create a condition of pollution or nuisance during a future storm event is not supported by the record.

In addition, the order fails to identify with specificity the lack of road maintenance by the named discharger; it fails to identify the problem with the initial design of the road that could possibly be attributed to the BLM; it fails to quantify the discharge that will create the condition of pollution or nuisance; it fails to quantify the increase in level of sediment, settleable and suspended material, and turbidity that will result from any particular storm event; and it fails to identify the standard that will be violated. In short, the observations of the Regional Board have not been adequately supported in the order. This lack of support makes it impossible for the BLM to respond to the allegations other than in a basic fashion.

- 10. The finding cites Water Code section 13304(a). The elements that need to be met to support the finding include 1) a person 2) who discharged or discharges 3) waste 4) into waters of this state 5) in violation of any waste discharge requirement or 6) other order or 7) prohibition 8) issued by a 9) regional board or 10) the state board, or 11) who has caused or permitted, 12) causes or permits, or 13) threatens to cause or permit 14) any waste 15) to be discharged or deposited 16) where it is discharged or 17) probably will be discharged into 18) the waters of the state and 19) creates or 20) threatens to create 21) a condition of pollution or 22) nuisance. Such a person shall clean up the waste or abate its effects, or if only threatened, take other necessary remedial action, upon order of a regional board. A close fit of the elements of the finding is not enough, the elements must specifically be applicable to the action at hand in order for the code section to be applicable. As previously and as further explained in this response, the Regional Board has failed to support its conclusion that the action of the BLM, i.e. its passive management of the public land over which the road lies and the bridge spans, will or may result in any actionable actual or threatened discharge that will or threatens to cause pollution or nuisance.
- 11. The order states that the BLM, as "discharger", is subject to an order because it "owns the property" and "took the actions" that result in the "threat of discharges of waste" into

"waters of the State". The actions that were taken by the BLM to which the Board refers must be those unnamed erosion control actions the Regional Board determined increased the threat of discharge, the emergency maintenance measures agreed upon by the Regional Board and the BLM, and the unnamed "permanent fixes to the road" and the replacement of the 36 inch CMP that the BLM has apparently refused to implement.

The Regional Board must meet the requirements of the water code and various statutory and other authorizations if it intends to subject a governmental agency to its interpretations of legal requirements. For instance, the Regional Board must address the requirements of the Basin Plan for this area including the application of existing policies, resolutions and MOA/MOUs. Potentially applicable policies, resolutions, and MOA/MOUs are found as appendices to the Basin Plan. Of interest here is Appendix 24, an MOU between the BLM and the California State Water Resources Control Board for Planning and Coordination of Non-point Source Water Quality Policies and Activities. The applicable jurisdictional authorities and the limitations thereof are expressed in that document, are meant to be incorporated but are not repeated here. The objective of that document is to address management activities of the BLM on public lands to reduce unnecessary duplication of effort, accelerate the implementation of BMPS, management measures and other NPS measures. Id. at 1. BLM and the SWRCB mutually agreed to develop a process for BMP/MM/NPSM selection and implementation to reduce or prevent NPS pollution from public lands, to develop implementation priorities, and to encourage participation among the SWRCB, BLM, and the Regional Boards to discuss public land NPS issues and BMPs, among other things. Id. at 4. The MOU recognizes the immense task to be addressed by acknowledging the 17 million acres in the state subject to BLM management control. The MOU has been ignored with the issuance of this cleanup and abatement order.

The BLM Instruction Memorandum referenced in Appendix 24 to the Basin Plan provides guidance to the field to cooperate with States on non-point sources of pollution. The Instruction Memo Attachment 9 requires the BLM to address non-point source water quality problems in planning and NEPA documents. Cooperation and coordination with State water quality authorities is directed and meant to provide the flexibility to BLM to achieve water quality objectives along with FLPMA multiple use objectives. All State Directors were directed to develop MOUs with State governments, identifying BLM's multiple use mission and the resource management planning process as the "vehicles to identify measures and practices that will provide for the protection and enhancement of beneficial uses of water". The Redding Field Office issued its current planning document in 1993. The Redding Resource Management Plan indicates that the BLM objective for soil resources is to prevent impairment of soil productivity due to accelerated soil loss. See RMP, p.24. The Redding BLM objective for water quality is to ensure that all waters on public land meet or exceed Federal and State water quality standards. BLM may enter into agreements with the States to address water quality issues on BLM lands, and BLM recognizes its obligation to coordinate with the Regional Boards to address water quality issues. See RMP, p.26.

In addition, the Basin Plan Amendment and Action Plan for Erosion/Sedimentation, Appendix 34 to the Basin Plan, provides further guidance to the Regional Boards to address active management activities that may result in disturbance of soil resources from human activities. It should be noted that the issue here results from passive management of the public lands over which the bridge spans and the road traverses. The order was not issued in response to an active management activity undertaken by the BLM, rather the order was issued in response to a storm event and resulting effects to the road and to the Creek. As such, the Basin Plan amendment is instructional, but perhaps not controlling. In any event, the amendment directs the Regional Boards to cooperate with the counties and involve local, state, and federal land management agencies in the development of a control plan for a particular problem area, to define soil loss and water quality standards, to plan, review, and implement best management practices, and funding therefore, and to provide leadership in working with land users in the problem area. See Appendix 34, p.3. Instead of following this process, the Regional Board issued an order to the BLM.

A review of the Basin Plan, its Appendices, and other supporting documentation indicates a structure exists to resolve "discharge" that may involve the BLM. The agreed upon process, developed in furtherance of the Water Quality Act of 1987, an amendment to the federal Clean Water Act, is described in the Basin Plan and its supporting documentation. The Regional Board usurped the process when it issued its cleanup and abatement order to the BLM without consideration of this established process.

- 12. This finding refers to another provision of section 13304 of the California Water code. Its applicability to this proceeding is not evident. It suggests that the Regional Board dispenses with responsible party identification and contribution in favor of a convenient discharger (here the BLM) paying for "necessary remedial action", as defined by the Regional Board. Not only are the supporting facts not identified in this action such that a comprehensive response can be prepared, the Regional Board dictates "necessary remedial action" contrary to agreements in place with the BLM, and subjects the BLM to the filing of a civil action to force other responsible parties to contribute to its expenditures. The order lacks the good faith cooperative spirit expressed in Appendix 24 to the Basin Plan.
- 13. This finding refers to section 13267 of the California Water Code. It dictates the preparation of technical or monitoring program reports at the direction of the Regional Board.
- 14. This finding apparently explains the need for the "technical or monitoring program reports" required by section 13267 of the California Water Code. The Regional Board summarily explains that the "reports required by this Order are necessary to assure that the work required is completed in compliance with applicable state law and requirements to protect the beneficial uses of waters of the State." As noted previously however, the Regional Board has not adequately supported the requirements of the order, nor does this statement explain the need for such a report. The order explains that because the BLM took unnamed actions that have resulted in "threatened discharge" to waters of the state, it needs to confirm with the submittal of a technical or monitoring program report that the "necessary remedial action" dictated by the Regional Board is completed. This explanation breaches the cooperative spirit of appendix 24, and does not meet the requirements of this section of the Water Code.
- 15. While the action of the Regional Board may be exempt from CEQA compliance, BLM actions remains subject to NEPA. It is not clear at this time whether BLM would be

required to complete environmental review of the activities ordered in this enforcement action, or if it could conclude such actions in the dictated time period, if the order is indeed an enforceable order.

16. This response constitutes a petition to the State Water Resources Control Board to review the order issued by this Regional Water Quality Control Board.

In addition to errors identified above in the findings, the BLM protests and petitions the State Board to review the ordered responses for the following reasons.

- 1. The BLM did not build and does not own the road.
 - a. The Forest Service built the road with help from the CCC's.
 - b. The road was constructed prior to the existence of the Bureau of Land Management as an agency.
- 2. The BLM is not obligated to maintain the road.
 - a. The Forest Service entered into an agreement with CDF to maintain this road. The CDF unilaterally terminated this agreement, pursuant to the terms of the permit, but without any notice to or knowledge of the BLM.
- 3. The BLM is a minority holder of the land under this road.
 - a. The BLM owns less than half of the land under or adjacent to the alignment of Doe Mill Road in Butte Creek canyon.
 - b. There are many other parties who own land under or adjacent to Doe Mill Road, and even more who have ownership under or adjacent to the entire alignment of Ponderosa Way.
- 4. The BLM has taken positive action to protect Butte Creek.
 - a. When no one else took affirmative action to respond to the emergency situation created by a combination of extreme weather and lack of maintenance, the BLM took positive steps to protect the waters of California. These steps were first recognized by the Regional Board but ultimately determined, without support or explanation, not to be enough.
 - b. The BLM worked with the Regional Board to resolve the emergency situation and create a stable condition so that the proper long term disposition of this road may be considered.

Global Memorandum of Understanding

A primary concern of the BLM is that clean up and abatement orders issued by the Regional Boards may have the potential to cripple public land management within the State. As a federal agency, the BLM operates on a budget that is proposed each summer and for which funds are theoretically appropriated in the fall. This requires advance planning for scarce federal funding. The BLM is not able to spend funds that it is not appropriated, yet that is exactly what the Regional Board would have the BLM do. Funding for the actions dictated by the Board would be taken, if at all, out of agency management funds. These actions are not planned, nor has funding been sought for them. Funding contrary to Congressional appropriation may violate the federal Anti-Deficiency Act. These very issues were recognized and addressed in the SWRCB MOU that it entered with BLM CA.

Just under half of Doe Mill Road traverses BLM managed land (Attachment 8). The majority of

Doe Mill Road crosses various other private interests. Recently, the BLM has done much to preserve the road and protect Butte Creek within the spirit of the MOU with the State Board. All interested parties must come together to reach a long term solution for the protection of Butte Creek and the maintenance of this important transportation corridor for Butte County.

The Butte County Supervisors are working with Representative Herger's office to see if he can help resolve any of the issues surrounding Ponderosa Way by bringing the various responsible parties together. For all of the reasons expressed in this Petition for Review, the BLM asks that the State Water Resources Control Board set aside the clean up and abatement order of the Regional Water Quality Control Board, Central Valley Region, and allow the affected governmental agencies the ability to resolve this and potentially similar disputes in accord with the agreement already reached by the State Board and the BLM.

Steven W. Anderson

Field Manager

BLM, Redding Field Office

Enclosures

Cc: Representative, Walley Herger

California Department of Forestry

Forest Service

Butte County Board of Supervisors

California Regional Water Quality Control Board

ATT 1

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2007-0708

FOR UNITED STATES DEPARTMENT OF INTERIOR BUREAU OF LAND MANAGEMENT, REDDING FIELD OFFICE, DOE MILL ROAD BUTTE COUNTY

This Order is issued to the Bureau of Land Management, United States Department of Interior based on provisions of California Water Code Section 13304, which authorizes the Regional Water Quality Control Board, Central Valley Region (Regional Water Board) to issue a Cleanup and Abatement Order (Order) and California Water Code section 13267, which authorizes the Regional Water Board to issue an order requiring submittal of monitoring and technical reports.

The Assistant Executive Officer of the Regional Water Board finds that:

- 1. The United States Department of Interior, Bureau of Land Management, Redding Field Office, 355 Hemsted Drive, Redding, CA 96002 (hereafter known as Discharger) owns the Doe Mill Road (also known as Garland Road; also known as Ponderosa Way) and surrounding lands above Butte Creek in Butte County. The property is east of State Highway 32 in Section 26 and 27, Township 24 North, Range 3 East, MDB&M. Surface water runoff is to Butte Creek and its tributaries. Butte Creek supports populations of federally listed Central Valley Spring Run Chinook (Oncorhynchus tshawytscha) and Central Valley Steelhead Trout (Oncorhynchus mykiss).
- 2. On 19 May 2006, Regional Water Board staff conducted an inspection of the Doe Mill Road. During the inspection, it was noted that the Doe Mill Road was poorly maintained, and was discharging large volumes of sediment to Butte Creek and its tributaries. A gully on the Doe Mill Road, on the west side of Butte Creek, had delivered approximately 300 cubic yards (yd³) of sediment directly into Butte Creek. A stream crossing with a 36-inch corrugated metal pipe (CMP) for a tributary stream on the east side of Butte Creek was plugged and threatening to divert streamflow onto the road. The CMP is undersized for the 100-year flood flow, including debris and sediment, and is not set to the natural grade of the watercourse. A previous road fill failure / inner gorge failure adjacent to the stream delivered approximately 1000 yd³ of sediment directly to Butte Creek. This failure was caused by excess road drainage, or by the plugging and subsequent overtopping of the 36-inch CMP during previous winters.
- 3. On 16 June 2006, Regional Water Board staff and the Discharger met on the Doe Mill Road. The Discharger had performed some road maintenance to correct some of the erosion issues, but Regional Board Staff determined that some of the maintenance measures had increased the threat of discharge to Butte Creek and its tributaries.
- 4. On 14 July 2006, Regional Water Board staff conducted an inspection on the Doe Mill Road with the Discharger. Emergency maintenance measures were agreed upon by

Regional Board Staff and the Discharger to prevent sediment discharge during the 2006-2007 winter period. Regional Board Staff informed the discharger that permanent road fixes needed to be done to minimize the threat to water quality over the long term. The emergency work was completed in late August / early September of 2006, including cleaning the inlet of the plugged CMP.

- 5. On 23 February 2007, Regional Water Board Staff met with the Discharger on the Doe Mill Road to discuss permanent fixes to the road and the replacement of the 36-inch CMP on the tributary stream on the east side of Butte Creek. The Discharger informed Regional Water Board Staff that they did not intend to replace the 36-inch CMP.
- 6. The 36-inch culvert is a threat to water quality since it is undersized for the 100-year flood flow including sediment and debris, and has plugged and possibly failed during previous winters. If the CMP becomes plugged the watercourse will be diverted onto the road with the potential to deliver 200-300 yd³ of sediment directly to Butte Creek. Even though the inlet of the culvert was cleaned in the summer of 2006, the inlet of the CMP has become 25 percent blocked by sediment during the 2006-2007 winter period.
- 7. The discharge of earthen material, soil and sediment into waters of the state constitute "waste" as defined in California Water Code section 13050. The Discharger, through this activity, has created a condition where waste (e.g., earthen material, soil, and sediment) threatens water quality, and probably will be discharged directly into surface waters, which are waters of the state and waters of the United States. The discharge of this waste will cause a condition of pollution or nuisance by increasing levels of sediment, settleable and suspended material, and turbidity.
- 8. The Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition, (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference, plans and policies adopted by the State Water Resources Control Board. The beneficial uses of Butte Creek as identified in Table II-1 of the Basin Plan are municipal and domestic supply; irrigation and stock watering; hydropower generation; water contact and other non-contact recreation; warm and cold freshwater habitat; migration of aquatic organisms; spawning, reproduction and early development of fish; wildlife habitat; and preservation of rare and endangered species. Butte Creek supports populations of federally listed Central Valley Spring Run Chinook (Oncorhynchus tshawytscha) and Central Valley Steelhead Trout (Oncorhynchus mykiss).
- 9. The Basin Plan establishes specific water quality objectives for inland surface waters. These objectives include numeric and narrative objectives for sediment, settleable and suspended material, and turbidity. Based on staff observations, the Discharger's lack of road maintenance and the poor initial design of the road has resulted in the placement and disturbance of sediment and soil, where it threatens to discharge into surface water drainage courses during rainstorm events. The discharge of waste to surface waters will create a condition of pollution and threatens to continue to create a condition of pollution or nuisance when earthen materials are transported in storm water during the

rainy season to downstream receiving waters increasing levels of sediment, settleable and suspended material, and turbidity.

10. Section 13304(a) of the California Water Code provides that:

"Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the fact may warrant."

11. As described in Findings 1 through 6, the Discharger is subject to an Order pursuant to Water Code section 13304 because the Discharger owns the property and took the actions that result in the threat of discharges of waste to waters of the State.

12. Section 13304(c)(1) of the California Water Code provides that:

"If the waste is cleaned up or the effects of the waste are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any governmental agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of waste within the meaning of subdivision (a), are liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial action. The amount of the costs is recoverable in a civil action by, and paid to, the governmental agency and state board to the extent of the latter's contribution to the cleanup costs from the State Water Pollution Cleanup and Abatement Account or other available funds."

13. Section 13267(b)(1) of the California Water Code provides that:

"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program

reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports."

- 14. As described in Findings 1 through 6 above, the Discharger is subject to an Order pursuant to Water Code section 13267 because the discharger took the actions that have resulted in the threatened discharge of waste to waters of the State. The reports required by this Order are necessary to assure that the work required is completed in compliance with applicable state law and requirements to protect the beneficial uses of waters of the State.
- 15. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2), Title 14, California Code of Regulations.
- 16. Any person adversely affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action. The State Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at www.waterboards.ca.gov/centralvalley or will be provided upon request.

IT IS HEREBY ORDERED THAT, pursuant to Sections 13267 and 13304 of the California Water Code, the Bureau of Land Management shall cleanup and abate the discharge and threatened discharge of earthen materials, soil, and sediment to waters of the state as follows:

- Complete, forthwith and in no event later than 15 November 2007, corrective actions necessary to minimize erosion and the discharge of sediment, including but not necessarily limited to, the following:
 - (a) Install, where necessary, an adequate number of waterbreaks designed to reduce road surface erosion by diverting storm water runoff from the road surface and directing it to a safe discharge area.
 - (b) Disconnect road drainage from Butte Creek and its tributaries.
 - (c) Stabilize all disturbed areas with seed, erosion control mulches, blankets, mats or other accepted erosion control equipment in sufficient quantities to protect the disturbed soil surface from the forces of rain drop impact and overland flow.
 - (d) Replace the 36-inch CMP with a watercourse crossing that shall accommodate the 100-year flood flow, including debris and sediment load. The watercourse crossing shall be reconstructed to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become obstructed.
- 2. Submit by 30 April 2007, a Cleanup and Restoration Plan describing specific actions taken to comply with No. 1, above and how the long-term impacts and discharges from

the road will be abated. The Cleanup and Restoration Plan is to be prepared by a professional, knowledgeable and experienced in road design and erosion prevention techniques, and shall be approved by the Regional Water Board Assistant Executive Officer.

- 3. Reimburse, if requested, the Regional Water Board for reasonable costs associated with oversight of actions taken in response to this Order. By **30 April 2007** submit the name and address to be used for billing purposes for oversight charges.
- 4. The Executive Officer may refer this matter to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.
- 5. Failure to comply with a cleanup and abatement order or the dates specified may result in further enforcement actions, including actions under section 13350, 13385, and 13387 of the California Water Code.

James C Pedri, P.E. Assistant Executive Officer

> 29 March 2007 (Date)

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ATTACHMENT T

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Friday, January 26, 2007

Welcome to Cally of the Cally o

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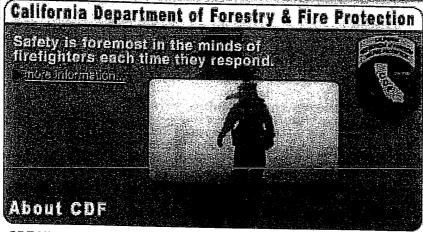
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CDF History Part 2

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Last modified on November 22, 2006

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In 1911 Congress passed the "Weeks Law" which provided fiscal aid for cooperative fire protection work between the Forest Service and qualifying States. In 1919, the California Legislature finally appropriated money for fire prevention and suppression work. The sum of \$25,000 was approved and the Forest Service, under the Weeks Law, provided \$3,500 for salaries of field men. The State's first four rangers or "Weeks Law Patrolmen" were hired for a four month period covering the summer of 1919. They worked wherever needed but were individually headquartered in Redding, Oroville, Placerville, and Auburn. The State Forester reported that three million acres of watersheds covering the Stanislaus, Mokelumne, Cosumnes, American, Bear, Yuba, and Feather rivers outside of the Federal reserves were to be afforded protection. No explanation has been given as to why the river systems and the "headquarters" locations didn't exactly match. In 1920, the ranger organization was restructured and expanded with ten rangers overseeing ten districts. The districts were: 1) Shasta County; 2) Butte and Yuba Counties; 3) Placer and Nevada Counties; 4) El Dorado and Amador Counties; 5) Tehama County; 6) Colusa County; 7) Lake County; 8) Mendocino County; 9) Napa County; 10) Santa Cruz, Santa Clara, and San Mateo Counties. Over the next decade the district system and the ranger force slowly grew.

In 1917, the State Legislature authorized the establishment of a forest nursery. In 1919 a bill was introduced to purchase land for a nursery site but failed. Meanwhile, the State Highway Commission had become an enthusiastic supporter of a State forestry nursery. They, and many members of the general public, wanted to use the planting stock to beautify public land including roadsides. In 1920 the Commission and the State Board of Forestry agreed to a cooperative venture to establish a nursery. The State Highway Commission had the resources and authority to purchase a tract of land and thus acquired thirty acres in Yolo County near Davis for a nursery site. In 1921 the State Legislature appropriated \$20,000.00 to the Board of Forestry for building construction upon this land. This marks the beginning of the building of a physical operating plant for the CDF.

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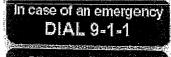
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CDF Arson Hotline 1-800-468-4408







The first State-funded fire lookout building was erected on Mount Bielawski in the Santa Cruz Mountains in 1922. However, in the 1920is, other than fire lookouts, the construction of buildings to serve the needs of the State Rangers was the individual State Ranger's responsibility. That is to say, the State of California did not fund construction. The "historic" San Jacinto Ranger's Office now located at the San Jacinto Forest Fire Station is the only known surviving State Ranger's office from the 1920s. It was built upon private land through local efforts. In 1923, the State's forestry program supported 16 rangers, 4 inspectors and 2 lookouts. By 1927 the force was up to 28 rangers, 7 inspectors, 6 patrolmen and 9 lookouts. During the interim, Congress had superseded the Weeks Act with the Clarke-McNary Act (of 1924). The law greatly expanded federal assistance to State forestry programs, and California was beginning to avail itself to this funding source.

In 1927, Governor Clement Calhoun Young orchestrated a reorganization of State government, creating the Department of Natural Resources with a Division of Forestry and a Division of Beaches and Parks. Administration of the State's parks was henceforth no longer a responsibility of the State Board of Forestry. The California Division of Forestry, as the forestry agency was now officially designated, would be headed by the State Forester who reported administratively to the Director of the Department of Natural Resources. From 1927 until the formation of the CCC, the CDF fire lookouts nearly tripled in size, with much of this activity performed in cooperation with the Forest Service. The first State fire trucks were not acquired until 1929. It's unknown where they were housed but they are believed to have been sheltered in buildings provided by the counties they were assigned. The first official State "standby crews" (seasonal fire fighters) were not hired until 1931.

The old fire station buildings on Mount Zion are the only pre-CCC era suppression station facilities remaining in the CDF property inventory. They were constructed as part of the State labor camp located at the site in the winter of 1931-32. The buildings were "reconstructed" in the early 1950s.

By 1931 a number of counties had entered cooperative agreements with the State Forester in order to have the State place a Ranger in their territory. However, the State Ranger continued to look to his sponsoring County's Board of Supervisors for any material aids and staff such as clerks, truck drivers and even Assistant Rangers that he needed. Almost nothing was available from the State budget for physical improvements to lookouts, telephone lines, firebreaks, or offices. It was in 1931 that the Board of Forestry hired Burnett Sanford, a forest engineer, to study what Clar reports had become a "complex and generally unplanned system of allotting operating funds among the numerous geographical sub-divisions into which the Division of Forestry had been allowed to grow." The "Sanford Plan" basically proposed that State funds be apportioned along the lines of "weighted values" of area protected. The values were couched in the general concepts that had brought about the National Forests. Specifically, the State was concerned about watershed management and timber management in the larger sense and also for protection of public recreation and wildlife habitat areas. Sanford criticized the type of rural organization that had occurred, for one reason because the higher valued mountain regions were receiving less fire protection than the low lying range lands and valley floors. Under the Sanford Plan, the State was divided into three classes. Class 1 lands had the highest value to the State embracing watershed, timber, and recreation areas. Here, the State would focus its fire protection efforts. Class 2 lands had no general value but would be protected as needed because fires could potentially threaten Class 1 lands. Class 3 lands were left to the local citizenry to protect.

The Great Depression had a significant impact upon both Federal and State wildland fire protection programs. As the Nation's economy degenerated, California became a beacon of hope. Though there was little employment available, thousands of the unemployed poured into the State. In the summer of 1931, S. Rexford Black met with Finance Director Vandegrift to discuss a work relief program. Black was Secretary of the lumberman's California Forest Protective Association and in August he was also appointed to the

chairmanship of the State Board of Forestry. In the winter of 1931-32 the first California State labor camps were formed. State Rangers were assigned to oversee the camps; the work was to benefit the public. Jobless men and their families could come and go from the camps as they wished. In exchange for four to six hours of labor the men received food, tobacco, and some clothing. The program was strapped for funds, supplies were low, accommodations poor but the program succeeded. Hundreds of miles of road and firebreaks were constructed, telephone lines repaired, campgrounds improved, and roadside hazards removed. The camp program ceased in the spring but was reactivated in the winter of 1932-33. It has been suggested that California's relief effort was the model for the Federal programs instigated during Franklin Roosevelt's Presidency.

President Roosevelt asked Congress to set up a Federal Relief Administration to oversee a grants program designed to relieve the Nation's unemployment crisis. Unemployment relief through the performance of useful public works was the President's philosophy. In April of 1933 the Emergency Conservation Work (ECW) program was established. It became known almost instantly as the Civilian Conservation Corps (CCC). In California, the Forest Service's District Forester, Stuart Show, had developed a plan of attack on how to utilize this new labor pool. Funded by ECW money, the CCC would be assigned three basic tasks: firebreak construction, lookout station building, and general improvements. The "Three Cs" would cut fuelbreaks around the State, with particular emphasis on establishing the "Ponderosa Way Firebreak." This continuous fuelbreak extended the length of the Sierra Nevada Mountains, and into the Cascades, ending north of Redding. The firebreak was intended to be a permanent defensive line between the lower foothill regions and the higher elevation National Forest lands. The second project, construction of an integrated, statewide fire detection network would bring to fruition the recommendations of an investigative group that Show had organized in 1930 at the California Forest and Range Experiment Station (Pacific Southwest today) to scrutinize every aspect of the fire detection problem in California. The group had recommended an integrated, network of fire lookouts be setup to cover all of the State's fire prone areas from the Oregon line to the Mexican border. The third task, general improvements, included the building of administrative and fire suppression bases, installation of roads, bridges, telephone lines and innumerable other conservation projects.

The ECW programs lasted from 1933 to 1942. All told, the CCC-WPA laborers constructed over 300 lookout towers and houses, some 9,000 miles of telephone lines, 1,161,921 miles of roads and trails and erected numerous fire stations and administrative buildings in California. The CCC had also planted over 30 million trees and had spent nearly one million "man days" in fire prevention and suppression activity. Because the CCC was expected to fight forest fires, they constituted the single largest wildland suppression force ever assembled in American history.

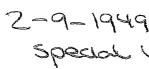
The Forest Service system of lookouts, guard stations, and ranger stations had been renovated, replaced, and/or expanded. For the California Division of Forestry, a system of fire stations and lookouts now existed throughout many of the fire prone areas of California. The Forest Service had identified about 60 sites for the CDF detection system. Approximately 50 new lookouts were erected by the Civilian Conservation Corps for the California Division of Forestry. At least 30 of these stations were on sites previously not utilized by the State agency. Most of these lookouts were erected from 1934 to 1936. Some of the fire suppression camps located at the CCC camps became permanent State fire stations. In other instances a "spike camp" was extended from a base CCC camp. This spike camp would eventually evolve into a permanent fire suppression camp in the CDF system. Clar reports that State Forester Pratt remarked that the CCC program thrust the CDF "twenty years ahead of itself." As Clar comments "That was a modest boast if otherwise anticipated progress was to be measured by prior achievement."

As the CCC capital improvement plan unfolded, the CDF instructed a few of its Sacramento staffers to, as Clar reported, "study and prepare plans for an

orderly development of fire lookouts, crew stations, telephone lines and the personnel and auxiliary equipment to go with them." The group was to take stock of the situation and develop long range goals. In 1938 the Board of Forestry instructed the State Forester to prepare a comprehensive statewide fire prevention, protection, and suppression plan. The outbreak of war in Europe added a new dimension and gravity to the fire planning studies of the 1930s. The war heightened apprehension about the State's vulnerability to fire. The earlier fire planning provided a foundation upon which a revised and solidified plan could be established. In 1939, the Board of Forestry appointed a four-man committee of staff and field men to prepare a fire plan for 1940. Clar was named chairman of the committee. The "Fire Plan of 1940" or "Clar Plan" as it became known redressed the financing scheme laid out in the Sanford Plan. As Clar states, there were "...two simple concepts. First, the idea seemed clearly reasonable that a consistent designation of area need should be indicated by types and numbers of units in the planned protection system, as modified by climate, geography, and the local fire problem... The second concept required a strict segregation of State responsibility from that of any other entity, government or private, and the use of State money to meet that responsibility."

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Uz permi

u - uses - Lasson - Road Right-of-way

Susanville, California February 9, 1949

E - ROADS & TRAILS - California State Div. of Forestry

In accordance with Regulations U-11 and U-14 of the U. S. Department of Agriculture, Forest Service Manual, the State Division of Forestry State of California, is hereby granted a Special Use Permit for a rightof-way over certain Government lands for the purposes ord subject to the conditions set forth below, which shall apply to the state right-of-way both on federally owned lands and on privately owned lands over which the right-of-way is granted. As used herein the word road shall include the actual road or highway. bridges, culverts, supports, and all appurtenances to the said road.

(1) Said right-of-way shall be 66 feet wide on Government land (33 feet on each side of the center line of the traveled way), or such width through private property as may have been granted to the U.S. Government for such roads all as shown on the attached map and more particularly described as follows:

U.S.F.S. Road Number and Name	Length BUTTE COUNTY	Termini
·2203 - Ponderosa Way BDF #15	2.00 miles	from 2301-A (SDF #15) to County road (FS #2305)
2301 - Flea Valley (No SDF number)	2.50 mlles	from M3 aroad #2301 SE to dead oud (This is a spur of the main road #2301)
2501-4 = Yankee Hill SDF #15	7.30 miles	from Jarbo Cap to County road (FS #2304)
2303 - Utah Hine BDF #13	7.20 mles	from County road (FS #2304) to F3 #2306 (SDF #1) and spur to Utah Mino
2306 - Ponderosa Way SDF #1	16.50 miles	from County road (FS #2305) to FS #2409 (County road). This includes spur to Savmill Penkand bridge #177
2309 - Fonderosa Way (Section H)	3.50 miles	from TS #2502 (County road) to TS #2510 (County road)

	•	22ge 2.
V.S.F.S. Road Number and Name	Langth	
2311 - Fonderosa Way	7.00 miles	Termini
(Section G) SDF #1		from#2502 (County road) to County road or NE; Sec. S, T. 23 N., R. 3 E. — include: bridge #186
2402-1 - Lynch Meadows SNF #8	7.30 miles	from SW corner Sec. 3, T. 23 R. 5 E., to North Valley wit! bridges #219 - #223 inclusive
2402 - Reg Dump SDF /12	only bridge	On Hora Tuginsial
8403 ** SDF #8.Ressy Bar	2.00 miles	; TS #2402-A (SDF #8) to Count;
2405 - Beld Mt. SDF //8	only bridges #104-#107 insl.	
2406 - Stirling City cut-off SDF #12	2.00 miles	from FS #2402 (no State No.) just below Stirling City to just N and W of Big Kinshew Creek with bridge #110
2407 - Stirling City spur	3.1 miles	from Stirling City south on ridge west of Snake Ravine an deadends
8411 SDF #324	15.10 miles	
		from State Highway #32 to IS #2614 (or County road) with bridges #196 - #200 inclusive
2508 - Carpenter Ridge SDF #3	7.80 miles	from West Branch to County road at County line, IS #2600
2511 - West Branch SDF #4	7.00 miles	from West Branch to Forest Ed or F3 road #2614. With bride #98 and #99
Trail Bridge #152 on IS to SDF trail #5	rail #24-3	, , ,

•	•		
	TERAMA & SHASTA COUNTIES		
2903 - Fonderosa Way (Section B)	8.00 miles.	from Wilson Ranch north to	
SDF #14	•	State Alghway #36	
3017 - Fuller Road SDF #25	5.10 miles	from County mad 15-E to Coun	
	•	read 65-E or PS #3016	
3019 - Digger Butte SDF #15	2.5 miles	from Fs #3020 (SDF #14) to Digger Butte Lockout	

₹	•	•
U.S.F.S. Road ~	•	Fage 3.
Number and Name	Length	Termin1
3020 - Fonderosa Way (Section A) SDF #14	l2.00 miles	from State Highway #36-to County road near County line, with bridges #145 and #154
3327 - Cutter Road	5.50 miles	from East line Section 1, T. 32 N., R. 2 E., West to County road #34-C
3328 - Blue Lake SDF #8	3.10 miles	from TS road #3425 (SDF #4) West to East line of Section To 33 N., R. 1 E.
3424 - Terry Lake SDF #4-and #5	11.20 miles	from F ^S #3443 to County road #34-0 or FS #3517, with bride #22, #23, #24 and #27
3425 - Green Burney SDF #4	10.00 miles	from County road #34-C (FS #2 to FS #3328 and spur dead encin Section 32, T. 34 N., R. 2
3442 -T (F3 transitely road)	3.00 miles	from IS road #3424 to IS road #3425
'3519 - Snow Mt. SDF #4	3.60 miles	from V.S. Highway #299 South to TS #3424 (SDF #4 and #5) w bridges #25-A and #25-B
5521 - Rickhorn Lake SDF #7	2.00 miles	from FS #3424 (SDF #4 and #5) southwest two miles with bric #21

•

- (2) Said roads shall be administered by said State Division of Forestry as a portion of their official road system for use by the general public without charge therefor.
- (3) The permittee shall maintain said roads in good, safe and serviceable condition, at least to their present standard. It may perform all work and activities necessary for such purposes and may also make minor improvements to the existing roads on said right-of-way.
- (4) The permittee shall comply with the Bules and Regulations of the Secretary of Agriculture governing National Forests and with all applicable State and rederal laws. Formittee opposes that it, its agents, representatives, contractors, and sub-contractors will take all reasonable precautions to avoid damage to timber, young growth and watershed cover, and to undertake diligantly suppression action in the event of fire resulting from the work covered in this instrument.
- (5) This permit shall be issued from of sleegs and shall continue until terminated on 30 days' notice by either party is writing.

DATE: Feb. 9, 1949

Forest Jupervisor

Lassen National Forest

This permit is hereby duly accepted on behalf of the State Division of Forestry by proper and appropriate authority, and the permittee hereby agrees to abide by and conform with all of the conditions herein.

DATE:

STATE OF CALIFORNIA, Division of Forestry

By :

Operations Officer

(Title)

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DEPARTMENT OF FINANCE

APPROVED

70CT 21 1949

James S. Dean, Director

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ATTACHMENT 4

State of California

The Resources Agency

Memorandum

Surt 1/10

To: Glen Newman, Region Chief Coast Cascade Region

Date: January 6, 1999

Telephone: ATS3 (8) 474.7111

(916) 538-7111

White C

From: Department of Forestry and Fire Protection

Gary F. Ross, Butte Unit

Subject:

3300 LANDS

3350 Disposal

Ponderosa Way Truck Trail - Butte County

Butte Ranger Unit has approximately 55 miles of fire access roads with corresponding bridges and culverts that we accepted from the USFS on a special use permit in the late1940's (see attachment). Some of the rights of ways were recorded easements and many were unrecorded due to land divisions, changes of ownership, relocation of roads for better access and other reasons. CDF has maintained these roads sporadically over the past 50 years. Our philosophy was, "Grade the roads in the spring to allow fire apparatus access for fire protection." As the foothills developed and homeowners divided their land, they began to expect these roads to be maintained to a higher standard to allow for residential access on a year round basis.

When the Ponderosa Way Truck Trail was transferred to CDF we became the stewards of the roadway and all the associated bridges and structures designed to cross the numerous deep gorges that are so prevalent in Butte County.

Over time the maintenance program has been reduced, in keeping with the reduction in operation dollars. In the mid-1970's we abandoned three sections of road that no longer fit into our access needs. All of these road sections were in the Berry Creek area. Two of them had bridges that were also abandoned.

In the mid-1980's we (Butte Unit) reclassified the remaining roads for maintenance. Those roads that were maintained to Level 1 were roads for access to CDF facilities. The remaining roads received a Level 2 of maintenance. Level 1 roads were to be inspected and ditches cleaned each fall. They were to be graded each spring. Level 2 roads were to be inspected in the fall like Level 1. No other work was to be done except as necessary for fire access.

Since these roads fell into disrepair their use subsequently dropped off, in most

Chief Glen Newman January 6, 1999 Page 2

cases. For all intents and purposes many of these roads are abandoned by CDF and only sporadically maintained by the residents.

More recently there was discussion that perhaps we should discontinue all maintenance except in those cases where the road served one of our facilities.

We currently are responsible for maintaining three (3) very large, complex bridge structures (West Branch of the Feather River, Butte Creek, Chico Creek) that will need replacement in the not so very far future. Butte Creek is approximately 200 feet in length and 100 feet above the creek with a steel structure. The last bridge inspection by CalTrans indicated that some welds were failing and that the metal was rusting. A conservative estimate to replace this bridge would be \$1.5 million. This bridge links Magalia with the Forest Ranch ridge. It would be nice to have for wildland response but based on current and past budget shortages we could live with the additional response times driving down to Chico and back up Highway 32 or the Skyway to get to an incident across Butte Creek.



\$ 15 min

The advent of heli-tack has slightly reduced the need for fire access by road during the initial attack phase of the fires, however, as the fire grows certain sections of Ponderosa Way have become important. Some landowners have gated sections of the road but allowed CDF locks, and other sections have washed out which has reduced activity in the area.

The level 1 roads are:

- Ponderosa Way from Coutolenc Road to Sawmill Peak Lookout (Paradise area) and on to Jordan Hill Road, West Branch of the Feather River bridge
- Ponderosa Way from Oroville-Quincy Road to Bloomer Hill Lookout (Berry

The level 2 roads are:

- Ponderosa Way from Vilas Road to Highway 32 (Cohasset area) Chico Creek
- Ponderosa Way from Garland Road to the PG&E ditch (Forest Ranch area) Butte Creek bridge
- Ponderosa Way from the Nimshew Ridge Road to the County Road (Paradise Pines area)
- Ponderosa Way from the Oroville-Quincy Road to the Bean Creek Road (Berry Creek area)
- Ponderosa Way from Lumpkin Road to Lake Oroville (Feather Falls area)
- Ponderosa Way from Lumpkin Road to the South Fork of the Feather River (Feather Falls area)

Chief Glen Newman January 6, 1999 Page 3

We met with Butte County Supervisor Fred Davis and County Public Works Director Mike Crump on December 14, 1998 to see if there was any interest in Butte County adopting that portion of Ponderosa Way between Magalia and Forest Ranch, including the Butte Creek Bridge, into the county system for emergency ingress/egress. At this time there is no interest by Butte County.

Although there are sections of Ponderosa Way we would like to see maintained for fire access and as fuel breaks, we no longer have the human or financial resources to keep the road system up. We feel that it would be in CDF's best interest to terminate the special use agreement and let the property revert back to the appropriate Federal agency. If you concur with this approach let me know and we will schedule a meeting with the Federal agencies involved. I have attached maps and copies of the original Special Use Agreements for your review. If you would like to review the road and bridges with your staff I would be most happy to set up a tour. The tour would take about two days as the level 2 roads are only passable by four wheel drive in some locations.

Sincerely,

Gary F.)Ross

Unit Chief

Attachments

DEPARTMENT OF FORESTRY AND FIRE PROTECTION 176 Nelson Avenue Oroville, California 95965 (530) 538-7111



May 30, 2000

Attention: Jack L Horner

Jerome Caston, District Ranger Feather River Ranger District USDA Forest Service 875 Mitchell Avenue Oroville, CA 95965-4699

Dear Mr. Caston: *

The Department of Forestry and Fire Protection, then the Division of Forestry, was issued a special user permit on February 9, 1949 for rights of way in portions of Butte, Tehama, and Shasta Counties where various roads pass through Forest Service lands in those counties. Each road was identified by a number and name, but current maps do not use the numbers indicated in the permit making identification difficult. Included in this permit, were various bridges.

As a condition of the permit, the permit "shall continue until terminated on 30 days' notice by either party in writing." This letter shall be considered as written notice that the Department wishes to terminate that portion of the agreement that deals with roads and bridges in Butte County.

Further clarification or questions should be directed to Assistant Chief, Craig Carter. Because the original Special Use Permit did not have a number for identification, I am attaching a copy of the permit for clarification.

Sincerely.

William Sagef Unit Chief

attachment



United States Department of Agriculture

Forest Service **Piumas** National **Porest**

Feather River Ranger District 875 Mitchell Avenue Oroville, CA 95965-4699 (530) 534-7984 Text (TDD) (530) 534-6500 Voice

File Code:

2730

Date:

May 16, 2001

State of California Department of Forestry and Fire Attn: Craig Carter 176 Nelson Ave. Oroville, CA 95965

Dear Craig:

This letter is to confirm the conversations you had today with Linda Braxton of my staff in regards to road uses referenced in your May 30, 2000, letter to this office.

In researching the permit files it was noted that permit folder 101307 includes reference to the roads described in the above mentioned May 30th letter, as well as roads in the Bloomer Hill/Galen/Lake Madrone/Bean Creek areas. Based on this information it appears that when permit 101307 was closed, it included all the roads that have just been described.

Caring for the Land and Serving People

If you have any further questions, please contact Linda at the phone number above.

Sincerely,

JEROME CASTON, SR

District Ranger



United States Department of the Interior



Bureau of Land Management Redding Field Office 355 Hemsted Drive

355 Hemsted Drive Redding, California 96002-0910 email caweb360@ca.blm.gov, phone (530) 224-2100. telefex (530) 224-2172



Monday, March 12, 2007

Pia Sevelius District Manager Butte County Resource Conservation District 150 Chuck Yeager Way, Suite A Oroville, CA' 95965

Subject: Letter of Intent to Collaborate in Butte Creek Watershed Plan Implementation, Watershed Restoration in Upper Butte Creek Watershed

The Redding Field Office of the United States Bureau of Land Management is excited at the possibility of working in partnership with the Butte County Resource Conservation District and the Butte Creek Watershed Conservancy to implement watershed restoration projects described in the Butte Creek Watershed Management Strategy. We would like to be listed as a partner agency on the Application Package for the CALFED Watershed Program 2007 Solicitation. We recognize that we are only one entity in a complex watershed. Only through trusting partnerships and finding common ground across ownership issues within the watershed can we improve the overall benefits to the entire community. Since the inception of the Butte Creek Watershed Conservancy and the Butte County Resource Conservation District, we have been committed to working partnerships because we realize the importance and necessity of a cooperative approach for watershed restoration.

We are especially pleased to be involved in this work that builds on the extensive Watershed Assessment and Planning efforts were completed at earlier stages of our partnership. This new implementation project should bring us even closer to meeting our community goals for reducing the negative impacts of the transportation system in the watershed. We look forward to engaging in proactive efforts that lead to expeditious on-the-ground implementation projects, and will contribute to the match needed for this project through in-kind contributions of equipment and personnel at a value of approximately \$50,000.

Thank you for taking the lead on this project, we look forward to working with you and the many other partners involved. Please contact either Bill Kuntz or Eric Antrim, at our office, 530-224-2100, for any additional information you need to complete the proposal application package.

Sincerely,

Steven Anderson

Field Manager

BLM, Redding Field Office

Owner Name	Segment Count	Total Miles
Bureau of Land Management	8	3.3239
Sierra Pacific Industries	1	1.0312
Deborah Penner	6	0.6239
Albert & Julia Gil	2	0.3916
Pacific Gas & Electric	1	0.3901
Jeffery Tetter & Marci Caldwel	2	0.2105
Mark & Mary Turkel Trust	1	0.1771
Max Thea	1	0.1709
William McLellon	1	0.1634
Bernard Knapp	1	0.1585
Gary Martone	. 1	0.1018
Gerald Rath & Deborah Page	1	0.0610
James Dutro	1	0.0230
Totals	27	6.83
BLM Percentage of Road		49%

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MEMORANDUM OF UNDERSTANDING BETWEEN THE BUREAU OF LAND MANAGEMENT U.S. DEPARTMENT OF THE INTERIOR AND THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD FOR

PLANNING AND COORDINATION OF NONPOINT SOURCE WATER QUALITY POLICIES AND ACTIVITIES

I. PURPOSE:

The purpose of this Memorandum of Understanding (MOU) is to formalize cooperation between the Bureau of Land Management (BLM), U.S. Department of the Interior, and the State Water Resources Control Board (SWRCB) and to develop appropriate procedures and clarify responsibilities related to nonpoint source (NPS) water quality issues and activities. The BLM and SWRCB share a common interest in maintaining, protecting, and improving the quality of waters (surface and ground water) of the State.

II. OBJECTIVES:

Through this MOU, SWRCB seeks to utilize the personnel and expertise of BLM to increase the development and implementation of water quality programs and projects relative to, but not limited to, agricultural, animal husbandry, silvicultural, mining, and construction activities on the public lands managed by BLM within the State of California. Coordination and cooperation between BLM and SWRCB will reduce unnecessary duplication of effort, accelerate the implementation of best management practices (BMPs), management measures (MM), and other NPS measures (NPSM) and increase overall program effectiveness.

The SWRCB and BLM recognize the need to improve, conserve, and protect the quality of surface and ground water by undertaking efforts to avoid pollution by NPSs and thereby maintain the quality and quantity of water available for safe drinking water supplies, irrigated agriculture, fisheries, and other beneficial uses. A coordinated effort will improve the likelihood of meeting these goals.

III. AUTHORITIES:

This MOU is entered into under the authorities of Division 7 of the California Water Code (Porter-Cologne Water Quality Control Act [Porter-Cologne Act]), the

authorities of the federal Clean Water Act (CWA), [Section 304(1), 314, 319, and 320], as amended, and the Federal Land Policy and Management Act of 1976, as amended, 43 U.S.C. 1701, et seq.

BLM Manual Section 7000.06(D-E), March 8, 1984, established BLM's policy for coordination with State agencies for related programs and provided for compliance with applicable State and federal water pollution control laws, standards, programs, and implementation plans.

BLM Instruction Memorandum No. 88-511, June 17, 1988, provides guidance to BLM field offices regarding coordination with State agencies on NPS pollution control activities. Instruction Memorandum No. 88-511 also addresses how BLM's NPS actions will be incorporated into the BLM planning process and into BLM's overall multipleuse resource objectives.

BLM has management responsibility for over 17 million acres of federal public lands throughout California. BLM's land-use oversight is provided through four district offices which are further subdivided into 15 resource area offices.

The Porter-Cologne Act, administered by SWRCB and the California Regional Water Quality Control Boards (CRWQCBs) establishes a comprehensive program for the protection of water quality and the beneficial uses of the waters of the State. The Porter-Cologne Act provides a "statewide program for water quality control."

SWRCB sets overall State policy, adopts statewide water quality control plans, approves all water quality control plans adopted by the CRWQCBs, and hears petitions to review CRWQCBs actions or inactions. The CRWQCBs have primary responsibility for permitting, inspecting, and enforcing actions regarding dischargers of waste. The CRWQCBs implement and enforce the policies and plans adopted by SWRCB.

Section 319 of CWA, as amended, requires the State to develop an NPS management program for controlling NPS pollution. SWRCB has developed a State NPS management program which lists the BLM as an agency with BMP/MM/NPSM implementation capability.

IV. PROCEDURES:

A. BLM AGREES TO:

- Integrate water quality concepts and management techniques into the BLM planning system and into environmental review and clearance of land-use proposals to address surface and ground water NPS pollution.
- 2. Provide copies of draft Resource Management Plans, draft Environmental Impact Statements, and draft Environmental Assessments which have significant water quality issues to the CRWQCBs responsible for the affected area.
- Provide BLM activity plans for those actions which have NPS issues as a primary concern to the responsible CRWQCBs for review and comment.
- 4. Incorporate BMP/MM/NPSM into BLM land uses and BLM permitted land uses, when necessary, to protect or maintain water quality.

B. SWRCB AGREES TO:

- Encourage the voluntary or cooperative approach as the first step in the development and implementation of solutions to the NPS problem.
- 2. Coordinate the activities of the CRWQCBs with those activities being proposed and implemented by the BLM.
- Define the goals and objectives of the NPS Interagency Advisory Committee and conduct regular meetings.
- 4. Emphasize to the CRWQCBs the importance of a timely response to BLM documents submitted for review.

C. BLM AND SWRCB MUTUALLY AGREE TO:

 Encourage participation of other federal, State, and local agencies and land users in the control of NPS pollution.

- Develop a process for BMP/MM/NPSM selection and implementation to reduce or prevent NPS pollution from public lands.
- Develop BMP/MM/NPSM for federal land uses with input from the NPS Interagency Advisory Committee and other affected parties.
- 4. Develop implementation priorities and policies for NPS pollution activities.
- 5. Provide NPS guidance and technical assistance to parties responsible for implementation of NPS pollution control on public lands.
- 6. Encourage the participation of BLM, SWRCB, and CRWQCB staffs in on-the-ground inspections and tours to discuss public land NPS issues and proposed, ongoing, or completed BMPs.
- 7. Develop a Water Quality Management Plan and a Management Agency Agreement for the purpose of carrying out portions of the State's NPS Management Program on BLM lands.
- 8. Wherever appropriate, encourage the development and implementation of comprehensive management plans covering entire or significant portions of watersheds. These plans would be developed using the principles of Coordinated Resource Management and Planning and, as appropriate, would seek to resolve issues relating to biological diversity as they relate to NPS pollution.

V. ADMINISTRATION:

- A. Nothing in this MOU alters the statutory or regulatory authority of BLM or SWRCB or requires the participants to obligate or expend funds in excess of available appropriations.
- B. The terms of this MOU may be renegotiated at any time at the initiative of one of the participants following at least 30 days notice to the other participant.
- C. This MOU may be cancelled at any time by one of the participants following at least 30 days notice to the other participant.

- D. Any participant may propose changes to the MOU during its term. Such changes will be in the form of an amendment and will become effective upon signature by all of the participants.
- E. The need for this MOU is expected to continue until the Water Quality Management Plan and Management Agency Agreement are in effect.
- F. This MOU will become effective upon the date of signature by both parties.

APPROVED:

Ed Hastey, California State Director
U.S. Bureau of Land Management

Date

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Clisio M. Aumanieso Eliseo M. Samanieso, Wice Chairman State Water Resources Control Board

Date